

## CONGRESSIONAL RECORD SUMMARY

Wednesday, May 23, 2001

### SENATE

#### Measure Introduced:

**S. 940.** A bill to leave no child behind; to the Committee on Finance.

Dodd

*Pages S 5542, S 5549-52*

#### Measures Reported:

**S. 757, to designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse."**

**S. 774, to designate the Federal building and United States courthouse located at 121 West Spring Street in New Albany, Indiana, as the "Lee H. Hamilton Federal Building and United States Courthouse."**

*S 5541, D 499*

#### Measures Passed:

**Tax Relief Reconciliation:** By 62 yeas to 38 nays (Vote No. 165), *Senate passed H.R. 1836*, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002, after taking action on the amendments proposed thereto.

*Pages S 5490-S 5522, D 499*

**During consideration of this measure today, Senate also took the following actions:**

By 49 yeas to 51 nays (Vote No. 161), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, *Senate rejected a motion to waive* the Congressional Budget Act of 1974 with respect to consideration of **Grassley Amendment No. 786 (to Amendment No. 763)**, to make certain modifications with respect to long-term care insurance policies. Subsequently, a point of order that the amendment was in violation of section 311(a)(2)(b) of the Congressional Budget Act was sustained, *and the amendment thus fell.*

*Page S 5493, D 500*

By 47 yeas to 53 nays (Vote No. 162), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, *Senate rejected a motion to waive* the Congressional Budget Act of 1974 with respect to consideration of **Graham Amendment No. 763**, to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with longterm care needs. Subsequently, a point of order that the amendment was in violation of section 305(b)(2) of the Congressional Budget Act was sustained, *and the amendment thus fell.*

*Pages S 5493-4, D 500*

Senate insisted on its amendment, requested a conference with the House thereon, and the chair was authorized to appoint the following conferees on the part of the Senate: Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Baucus, Rockefeller, Daschle, and Breaux.

*Pages S 5522, D 500*

#### Nomination Announcement:

In accordance with the provisions of **S. Res. 8, Committee on the Judiciary failed to report** the nomination of *Ted Olson*, to be *Solicitor General* of the United States, by a tie vote of 9-9.

*Page S 5531, D 500*

#### Nominations Received:

**Senate received the following nominations:**

**William J. Riley**, of Nebraska, to be **United States Circuit Judge** for the Eighth Circuit, vice Clarence A. Beam, retired.

**J. Robert Flores**, of Virginia, to be *Administrator of the Office of Juvenile Justice and Delinquency Prevention*.

*Pages S 5570, D 500-1*

**Executive Communications:**

**EC-1957.** A communication from the General Counsel of the United States Marshal Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "*Revision to United States Marshals Service Fees for Services*" (RIN1105-AA64) received on May 17, 2001; to the Committee on the Judiciary.

**EC-1958.** *A communication from the Secretary of the Judicial Conference of the United States, transmitting, a draft of proposed legislation entitled "Federal Courts Improvement Act of 2001" received on May 10, 2001; to the Committee on the Judiciary.*

*Page S 5538*

**Committee Meetings:**

**Committee on Commerce, Science, and Transportation:** Committee concluded hearings to examine the impact of past legislation on the professional boxing industry, and whether additional federal, state, and private sector reforms, including the establishment of a centralized association or league, a boxers union, a promoters and managers collective, and consistent state regulations among the state athletic commissioners, are needed to further improve the sport.

*Page D 501*

**Committee on Energy and Natural Resources:** *Committee ordered favorably reported the following business item: S. 507, to implement further the Act (Public Law 94-241) approving the covenant to establish a commonwealth of the Northern Mariana Islands in Political Union with the United States of America.*

*Pages D 501-2*

**Committee on Environment and Public Works:** *Committee ordered favorably reported the following business items: S. 774, to designate the Federal building and United States courthouse located at 121 West Spring Street in New Albany, Indiana, as the "Lee H. Hamilton Federal Building and United States Courthouse;" S. 757, to designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse."*

**Committee on Governmental Affairs:** Committee ordered favorably reported the nominations of *Stephen A. Perry*, of Ohio, to be *Administrator of General Services*, *Erik Patrick Christian* and *Maurice A. Ross*, each to be an *Associate Judge of the Superior Court of the District of Columbia*.

*Page D 502*

**Committee Meetings (Cont'd.):**

**Committee on the Judiciary:** *Committee concluded hearings on the nominations of Deborah L. Cook*

*and Jeffrey S. Sutton, both of Ohio, each to be a United States Circuit Judge for the Sixth Circuit, John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, and Ralph F. Boyd, Jr., of Massachusetts, and Robert D. McCallum, Jr., of Georgia, each to be an Assistant Attorney General, both of the Department of Justice, after the nominees testified and answered questions in their own behalf.*<sup>1</sup>

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**Committee Meetings For Thursday, May 24, 2001:**

**Committee on Appropriations:** @ 10:00 a.m. Subcommittee on Legislative Branch, to hold hearings on proposed budget estimates for fiscal year 2002 for the *Architect of the Capitol*. SD- 124.

Page D 506

**Committee on the Judiciary:** @ 2:00 p.m. To hold hearings to examine competition in the pharmaceutical marketplace, focusing on the antitrust implications of patent settlements. SD-226.

Page D 507

**Committee Meeting Scheduled:**

**Committee on Governmental Affairs,** 6/14 & 6/15/01 @ 9:30 a.m. Investigations Subcommittee to hold hearings to examine the nature and scope of cross border fraud, focusing on the state of binational U.S.-Canadian law enforcement coordination and cooperation and what steps can be taken to fight such crime in the future. SD-342.

Page E 919

**HOUSE**

**Bills Introduced:**

**H.R. 1965.** *A bill to clarify the Administrative Dispute Resolution Act of 1996 to authorize the Merit Systems Protection Board to establish under such Act a 3-year pilot program that will provide a voluntary early intervention alternative dispute resolution process to assist Federal agencies and employees in resolving certain personnel actions, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Gekas

Page H 2678

**H.R. 1966.** A bill to establish certain uniform legal principles of liability with respect to manufacturers of products; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Hostettler

Page H 2678

**Bills Introduced (Cont'd.):**

**H.R. 1973.** *A bill to provide for review in the Court of International Trade of certain determinations of binational panels under the North American Free Trade Agreement; to the Committee on Ways and*

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<sup>1</sup>This information is reported incorrectly by the Congressional Record. The Senate Committee on the Judiciary **did not** hold hearings on the judicial nominees, Deborah L. Cook, Jeffrey S. Sutton and John G. Roberts. The hearings were canceled by Senator Orin Hatch, Chairman of the Senate Judiciary Committee on May 23, 2001.

***Means.***

Norwood

*Page H 2679*

**H.R. 1977.** A bill to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands; to the Committee on Resources.

Underwood

*Page H 2679*

**H.R. 1978.** *A bill to concentrate Federal resources aimed at the prosecution of drug offenses on those offenses that are major; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Waters

*Page H 2679*

**H.R. 1. Leave No Child Behind Act:**

The House passed **H.R. 1**, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind by a recorded vote of 384 ayes to 45 noes, Roll No. 145. The House considered the bill on May 17 and May 23.

*Pages H 2577-H 2645, D 503*

**Agreed To:**

**Norwood amendment No. 13** printed in House Report 107-69 that allows the discipline of children with disabilities who carry weapons, possess or use drugs, or commit an aggravated assault or battery (agreed to by a recorded vote of 246 ayes to 181 noes, Roll No. 138).

*Pages H 2582-6, H 2609-10, D 503*

**Rejected:**

**Armey amendment No. 15** printed in House Report 107-69 that sought to authorize private school choice for students who have attended low performing schools for 3 years, permit the use of innovative education grants funding for school choice, **and allow choice for students who are victims of crime or who are attending unsafe schools** (rejected by a recorded vote of 155 ayes to 273 noes, Roll No. 135).

*Pages H 2588-96, H 2607-8, D 504*

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill.

*Pages H 2645, D 504*

**H. Res. 143**, the rule that provided for consideration of the bill was agreed to on May 10.

*Page D 504*

**H.R. 1836. Economic Growth and Tax Relief Reconciliation Act:**

**The House disagreed with the Senate amendment to H.R. 1836**, to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002 and agreed to a conference.

Appointed as conferees: Representatives Armey, Thomas, and Rangel.

*Pages H 2646-54, D 504*

**H.R. 1836. Economic Growth and Tax Relief Reconciliation Act (Cont'd.):**

**Rejected the Stark motion** to instruct conferees to produce a conference report in which the revenue losses and debt service costs do not grow as a percentage of gross domestic product on either a long or short term basis; shall not include phase-ins longer than 5 years, delayed effective dates, or sunsets; include provisions

on marriage penalty relief; increasing per-child tax credit; estate tax relief; *pension reform legislation*; and permanent extension of the research credit; adjust the current law alternative minimum tax so that it does not disallow the benefits of the tax reductions in the bill; shall be designed so that its revenue loss and associated debt service costs for each fiscal year do not exceed the projected non-Social Security/non-Medicare surplus for such fiscal year; and provides benefits to every family with children that has income or payroll tax liability with inflation adjustments so that the benefits do not erode over time by a year-and-a-half vote of 198 yeas to 210 nays, Roll No. 146.

*Pages H 2646-54, D 504*

**Committee Meetings:**

**Committee on Appropriations:** Subcommittee on District of Columbia held a hearing on Fiscal Year 2002 D.C. Budget.

**Committee on Energy and Commerce:** Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on *"On-line Fraud and Crime: Are Consumers Safe?"*

**Committee on Energy and Commerce:** Subcommittee on Oversight and Investigations held a hearing on *"How Secure Is Private Medical Information? A Review of Computer Security at the Health Care Financing Administration and Its Medicare Contractors."*

**Committee on Government Reform:** Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on Effective Faith-Based Drug Treatment Programs.

**Committee on the Judiciary:** Ordered reported, as amended, the following bills: **H.R. 169, *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2001***; and **H.R. 718, Unsolicited Commercial Electronic Mail Act of 2001**.

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**Committee Meetings For Thursday, May 24, 2001:**

**Committee on Government Reform, @ 10:30 a.m.** *Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs and the Subcommittee on Technology and the House of the Committee on Rules, joint hearing on "Unfunded Mandates--A Five-Year Review and Recommendations for Change."* 2154 Rayburn.

**Committee on the Judiciary, @ 10:30 a.m.** Subcommittee on the Constitution, to mark up **H.J. Res. 36, proposing an amendment to the Constitution of the United States** authorizing the Congress to prohibit the physical desecration of the flag of the United States. 2226 Rayburn.

**Committee on the Judiciary, @ 1:30 p.m.** Subcommittee on Crime, oversight hearing on *"Fighting Cyber Crime: Efforts by State and Local Officials."* 2237 Rayburn.

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**Remarks:**

**Patient Protection Legislation.**

*"...I think that is unconstitutional. I think that is an abridgement of the 10th amendment, but it is incumbent on Congress to fix that, because it was Congress that created this problem 25 years ago. Now, I am not the only one who thinks this. The Federal judiciary thinks this, too. In fact, Judge Pickering, the father of one of our colleagues here in the House, told me that he thinks we need to fix this. He has come up against*

*cases like this. Here we have a statement from Judge Arbis in Pomeroy v. John Hopkins. He says the prevalent system of utilization review now in effect in most health care programs may warrant a reevaluation of ERISA by Congress so that its central purpose of protecting employees may be reconfirmed. [ ] We are talking about ERISA. We are talking about messages coming to us from the Federal bench.. [ ] The State courts have significant experience in personal injury claims and would be an appropriate forum to consider personal injury actions pertaining to health care treatment. Federal courts cannot handle this. They already have a huge number of judicial vacancies under Federal law..."*

Ganske

*Pages H 2670-2*

**Introduction Of The "Merit System Protection Board Administrative Dispute Resolution Act Of 2001. (H.R. 1965)**

*"... Until 1990, MSPB judges received compensation equivalent to that provided Immigration, Social Security and Administrative Law Judges. Since 1990, however, the wage disparity between MSPB judges and other administrative judges has detrimentally affected the Board's ability to attract and retain top judges. Over the last four years alone, the Board has lost nearly 20 percent of its judges to other adjudicatory agencies..."*

Gekas

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School Safety.

DeFazio

*Pages E 914-15*

**Next SENATE MEETING: Thursday, 10:00 a.m., May 24, 2001.**

**Next HOUSE MEETING: Thursday, 10:00 a.m., May 24, 2001.**

**OLA: S. Schwarz (Smith), J. Homanich**